

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
No. 7:23-CV-897

IN RE: )  
CAMP LEJEUNE WATER LITIGATION )  
 )  
This Pleading Relates to: )  
ALL CASES )

**PLAINTIFFS' LEADERSHIP GROUP'S MOTION TO COMPEL PRODUCTION OF  
THE ATSDR'S WATER MODELING PROJECT FILE IN NATIVE FORMAT**

Pursuant to Fed. R. Civ. P. 34 & 37, the Plaintiffs' Leadership Group ("PLG") respectfully requests that the Court compel the government to produce the Agency for Toxic Substances and Disease Registry's ("ATSDR") water modeling project file in native format. In support of this motion, the PLG shows as follows:

1. The ATSDR was statutorily mandated to study the historic contamination levels at Camp Lejeune. The ATSDR's water modeling established the presence of poisonous contaminants in the groundwater at Camp Lejeune at least between 1953 and 1987. As a result of this water modeling analysis, the ATSDR created a single, cohesive "water modeling project file" (the "project file")

2. The government does not contest that the project file is discoverable. In fact, the government has committed to producing the project file (subject to privilege objections) over a period of 45 days. However, the government insists upon providing the ATSDR's water modeling project file disassembled and largely unusable.

3. The government proposes to produce the project file pursuant to the electronically stored information ("ESI") guidelines of the Stipulated Order Establishing Protocol for Document Collection and Production (the "ESI Protocol"). [D.E. 52]. Unfortunately, production of the project

file pursuant to the ESI Protocol will involve breaking apart the project file into many separate pieces, completely destroying the file's organization and thereby rendering significant portions of the file unusable. The project file consists of thousands or perhaps tens of thousands of individual files. Many of these individual files cross-reference—or “link”—to other individual files within the overall water modeling project file. If the file is deconstructed, those links will not lead to actual data sources, and the file will not function in the same manner intended by the ATSDR.

4. For these reasons, the PLG has asked the government to produce a “mirror” copy of the water modeling project file as it exists in its native format. This mirror copy could be compared to the government's own mirror copy to ensure the integrity of any data used by the PLG. Further, the PLG has no objection to the government's producing an additional copy—which would include bates labels—pursuant to the ESI Protocol.

5. The government has declined to produce the mirror copy of the ATSDR's water modeling project file. There is a clear need for native project file, and production of the same would not be burdensome or otherwise prejudicial. The PLG therefore asks the Court to compel production of a native copy of the project file.

6. In a Text Order of February 7, 2024, the Court required that the PLG file any motion to compel concerning the project file within 10 days. [D.E. 134]. Since Monday February 19, 2024 if a federal holiday, the deadline for the present motion is Tuesday February 20, 2024 pursuant to Fed. R. Civ. P. 6(a)(1)(C).

7. To the extent necessary, the PLG further moves that the ESI Protocol be amended only insofar as necessary to allow production of the project file in native format in this unique circumstance.

8. The PLG certifies that there have been good faith efforts to resolve this dispute, and that those efforts have failed.

WHEREFORE, the PLG respectfully requests that the Court compel the government to produce the ATSDR's water modeling project file in native format, and for such other and further relief as the Court deems just and proper.

*[Remainder of Page Intentionally Left Blank]*

DATED this 20<sup>th</sup> day of February, 2024.

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**CERTIFICATE OF SERVICE**

I, J. Edward Bell, III, hereby certify that the foregoing document was electronically filed on the Court's CM/ECF system on this date, and that all counsel of record will be served with notice of the said filing via the CM/ECF system.

This the 20<sup>th</sup> day of February, 2024.

/s/ J. Edward Bell, III

J. Edward Bell, III